

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 987

92ND GENERAL ASSEMBLY

2004

3305S.03T

AN ACT

To repeal sections 247.040 and 247.085, RSMo, and to enact in lieu thereof six new sections relating to water service to annexed areas.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 247.040 and 247.085, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 247.040, 247.085, 644.581, 644.582, 644.583, and 1 to read as follows:

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by not less than fifty voters or owners of real property within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers [thereof] **of the petition, including a statement confirming that service has been made by certified**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

mail to the city manager or the business office of any municipality with boundaries located not more than one mile from any boundary of the proposed district.

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than seven nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily newspaper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter or owner of real property in the proposed district **or by any municipality with boundaries located not more than one mile from any boundary of the proposed district**; provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or

appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

247.085. 1. The board of directors of any public water supply district which is

dependent upon purchases of water to supply its needs shall have power to sell and convey part or all of the property of the district to any city, owning and operating a waterworks system, in consideration whereof the city shall obligate itself to pay or assume the payment of all outstanding bond obligations of the district, and to provide reasonable and adequate water service and furnish water ample in quantity for all needful purposes, and pure and wholesome in quality, to the inhabitants of the territory lying within the district, during such period of time and under such terms and conditions as may be agreed upon by the city and the board of directors of the district; provided, however, that no action shall be taken as provided herein until said city and public water supply district shall cause a printed notice of their intention to act under this section to be published in a manner prescribed for by law in a newspaper having a general circulation in said city and public water supply district, and a statement of the time and manner of said publication shall be recited in any agreement or contract executed hereunder.

2. Thereafter the board of directors may sell and convey any remaining property of the district and after payment of the debts of the district, other than bond obligations, the board of directors may use the funds of the district for the purpose of providing fire protection or for any other public purpose which in the opinion of the board will be beneficial to the inhabitants of the district.

3. The powers granted by this section are in addition to the powers granted by other sections and are not subject to the terms and conditions set forth in those sections.

644.581. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.582. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.583. In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

Section 1. When an entity considering or proposing the construction of a multiresidential or commercial development, which is located within the city limits

of a city owning a waterworks and also located within the boundaries of a public water supply district, makes an inquiry of the city administrator respecting the supply of water service to such construction project, the city shall notify the public water supply district of such inquiry. Such notification shall be within ten days of the initial inquiry of the city administrator, shall be by certified mail, and shall state the location of such construction project to the extent the city administrator is aware of such.

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